



NLC25

TUCSON, ARIZONA

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Title Insurance Potpourri
Elizabeth J Wysong Berg | FNF Family of
Companies



Today's Topics

- Getting to Closing Table Easier with Commercial Real Estate
- FinCEN Residential Real Estate Report
- Foreign Ownership Legislation
- Seller Impersonation Fraud/Deed Fraud Legislation
- Anti-Squatter Legislation
- What would you like to discuss?

Getting to the Closing Table

- Endorsements
- Entity Determination & Authority Information
- Amount of Transaction
- Review of Commitment/Creation of Pro Forma
 - Legal Description
 - Requirements
 - Exceptions



FinCEN's Residential Real Estate Reports

- Mission: “...to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.”
- Bank Secrecy Act
- Anti-Drug Abuse Act of 1988
- Anti-Money Laundering Act of 2020

Anti-Drug Abuse Act 1988

PUBLIC LAW 100-690—NOV. 18, 1988

171064
102 STAT. 4181

Public Law 100-690
100th Congress

An Act

To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

SEC. 2. TABLE OF TITLES.

Title I—Coordination of national drug policy
Title II—Treatment and prevention programs
Title III—Drug education programs
Title IV—International narcotics control
Title V—User accountability
Title VI—Anti-drug abuse amendments act of 1988
Title VII—Death penalty and other criminal and law enforcement matters
Title VIII—Federal alcohol administration
Title IX—Miscellaneous
Title X—Supplemental appropriations

Nov. 18, 1988
[H.R. 5210]

Anti-Drug Abuse
Act of 1988.
21 USC 1501
note.

SEC. 6185. BANK SECRECY ACT AMENDMENTS.

(a) **BUSINESS SIMILAR TO FINANCIAL INSTITUTIONS.**—Section 5812(a)(2) of title 31, United States Code, is amended by striking subparagraphs (T) and (U) and inserting the following:

"(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

"(U) persons involved in real estate closings and settlements;

"(V) the United States Postal Service;

"(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;

"(X) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a



Current Methods

- Suspicious Activity Reports (SARs)
- Currency Transaction Reports (CTRs)
- Residential Real Estate Reports

Why does this Matter?

- Coming to Commercial Real Estate
- Could involve some commercial property transactions
- Will be asked to provide information prior to closing



Foreign Ownership Legislation

- Common Provisions
 - Prohibit any government unit, individual or entity affiliated with a foreign adversary from the purchase or lease of real property
 - Geographic limitations, i.e., within X miles of a military installation
 - Property type limitations, i.e., agricultural land
 - Special statements or affidavits to accompany document submitted for recording
- At least eleven states currently have legislation pending to restrict foreign ownership of real property
- There were over 150 bills last year

Seller Impersonation Fraud/Deed Fraud Legislation

- Common Provisions
 - New or increased criminal penalties for deed fraud or title theft
 - Process for restoration of title
 - Special requirements for recordation of quit claim deeds
 - Limitations on who can submit certain documents for electronic recording
- Example
 - Missouri House Bill 1249, which would provide that a person may only submit a quit claim deed for recording in person at the county recorder's office on a form designated by the recorder. There are some exceptions whereby a licensed real estate broker, title company or attorney may submit a quit claim deed through a web portal or other electronic method.

Anti-Squatter Legislation

- Background
 - Squatters exploit laws intended to protect lawful occupants of residential or commercial property
 - Some local governments have provided rights to squatters
 - Removing a squatter can be a long and costly legal process for the owner
- Common Provisions
 - Expedited process allows owner to have law enforcement immediately remove squatters if certain conditions are met – often an unrecorded affidavit provided by the owner
 - Provides remedy for wrongfully removed persons
 - Criminalizes the use of forged or fraudulent documents to establish a right to occupancy
 - May try to ban adverse possession
- Example
 - Utah House Bill 126 would allow homeowners to immediately recover their property against unlawful trespassers. The bill would also impose criminal penalties for any person who knowingly and willfully presents a false document purporting to be a valid lease agreement, deed, or other instrument conveying real property rights; and for fraudulently listing or advertising for sale, or renting or leasing, residential real property under certain circumstances.
 - At least 18 states have similar bills.



Thank you!

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Game code: TITLES

